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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/801,398	03/07/2001	Peter O. Schmidt	HELLO-08600	4052

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EXAMINER

BRITTAIN, JAMES R

ART UNIT	PAPER NUMBER
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3626

DATE MAILED: 02/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/801,398

Applicant(s)

SCHMIDT ET AL.

Examiner

James R. Brittain

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: _____

DETAILED ACTION

Inventorship

In view of the papers filed January 4, 2001, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by the additions of Roger Van Thiel and John Magnasco.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in–

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 5, 6 and 8 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Lyons et al. (US 4754528).

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Lyons et al. (figures 1, 2) teaches clip structure for a hand held object including a clip with a first segment having a protrusion 18 at its distal end facing toward the object and a second segment 19 bent at a right angle to the first segment so that pressure on the second segment opens the clip so as to release the object from a belt.

Claims 12, 13 and 15 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Mievis (US 5632069).

Mievis (figures 1-4) teaches that it is advantageous to use anti-skid adaptor 8 on the belt clip 4 so as to better maintain the clip in position.

Claims 12, 13 and 15 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Rabenecker (US 6161259).

Rabenecker (figure 1) teaches that it is advantageous to use foam rubber inserts 13, 14 which can be removed so as to allow the clip to be used without them.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lyons et al. (US 4754528) in view of McKnight (US 4580347).

Lyons et al. (figures 1, 2) teaches clip structure for a hand held object including a clip with a first segment having a protrusion 18 at its distal end facing toward the object and a second segment 19 bent at a right angle to the first segment so that pressure on

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the second segment opens the clip so as to release the object from a belt. The difference is that the clip is not rotatably coupled with the object. However, McKnight (US 4580347) teaches clip structure for a tape measure including a spring loaded hinge member 46 to secure the clip 48 to the base 45 wherein there is also a second bent segment 54 extending at right angles to the first segment so as to more easily open the clip and release a belt. It would have been obvious to modify the clip of Lyons et al. so that the clip is rotatably coupled in view of McKnight teaching such structure as being old and well known for constructing a belt gripping clip.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lyons et al. (US 4754528) in view of Mievis (US 5632069) or Japanese patent 11-40952.

Lyons et al. (figures 1, 2) teaches clip structure for a hand held object including a clip with a first segment having a protrusion 18 at its distal end facing toward the object and a second segment 19 bent at a right angle to the first segment so that pressure on the second segment opens the clip so as to release the object from a belt. The difference is that the clip lacks an adaptor to frictionally grip the article. However, Mievis (figures 1-4) teaches that it is advantageous to use anti-skid adaptor 8 on the belt clip 4 so as to better maintain the clip in position and that this is an alternative construction to the second embodiment (figures 5,6) which lacks the anti-skid adaptor. The adaptor has a height greater than the projection at the distal end of the clip plate 6.

Alternatively, Japanese patent 11-40952 (figures 1, 2) teaches that it is advantageous to provide an elastic adaptor 5 with a high coefficient of friction so that the belt is not damaged. It would have been obvious to modify the device of Lyons et al. so that the

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clip has an adaptor to frictionally grip the article in view of Mievis teaching that it is advantageous to use anti-skid adaptor 8 on the belt clip 4 so as to better maintain the clip in position and that this is an alternative construction to the second embodiment (figures 5,6) which lacks the anti-skid adaptor or alternatively in view of Japanese patent 11-40952 teaching that it is advantageous to provide an elastic adaptor with a high coefficient of friction so that the belt is not damaged. Applicant doesn't indicate that the adaptor is removable and the device of Mievis or alternatively Japanese patent 11-40952 is considered an adaptor.

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lyons et al. (US 4754528) in view of McKnight (US 4580347) as applied to claims 1 and 2 above, and further in view of Mievis (US 5632069) or Japanese patent 11-40952.

Further modification of the clip of Lyons et al. so that it has an adaptor to frictionally grip the article would have been obvious in view of Mievis teaching that it is advantageous to use anti-skid adaptor 8 on the belt clip 4 so as to better maintain the clip in position and that this is an alternative construction to the second embodiment (figures 5,6) which lacks the anti-skid adaptor or alternatively in view of Japanese patent 11-40952 teaching that it is advantageous to provide an elastic adaptor with a high coefficient of friction so that the belt is not damaged. Applicant doesn't indicate that the adaptor is removable and the device of Mievis or alternatively Japanese patent 11-40952 is considered an adaptor.

Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lyons et al. (US 4754528) in view of Japanese patent 11-40952.

Lyons et al. (figures 1, 2) teaches clip structure for a hand held object including a clip with a first segment having a protrusion 18 at its distal end facing toward the object and a second segment 19 bent at a right angle to the first segment so that pressure on the second segment opens the clip so as to release the object from a belt. The difference is that the clip is not secured to an electronic device. However, Lyons et al. do teach using the clip for hand held devices and it is conventional to use clips to secure electronic devices as is well known. Japanese patent 11-40952 (figures 1-2) provides evidence of the desirability to secure a clip to an electronic device so as to mount it to the waist. The problem evident to Lyons et al. exists for all users of belt clips and it would have been obvious to modify the teachings of Lyons et al. so that it is used with electronic devices since Japanese patent 11-40952 teaches that belt clips are used on electronic devices, too. As to claims 10 and 11, Japanese patent 11-40952 teaches that it is advantageous to provide an elastic adaptor with a high coefficient of friction so that the belt is not damaged. Applicant doesn't indicate that the adaptor is removable and the device of Japanese patent 11-40952 is considered an adaptor.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rabenecker (US 6161259) in view of Zuckerman (US 5890634).

Further modification of the device of Rabenecker so that the adaptors are attached by a protrusion fitting into an aperture would have been obvious in view of Zuckerman (figures 1, 3, 6, 8) in which the adaptors 40 are secured by protrusions 54 fitting into conforming apertures so as to better secure the device.

Conclusion

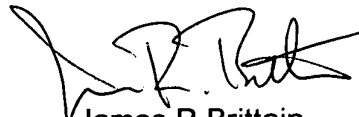
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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents of Fluder et al. (US 5253292), Carpenter (US 6205222), Nordberg (US 5235728) and Vickers et al. (US 4780934) teach pertinent fastener structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R Brittain whose telephone number is 703-308-2222. The examiner can normally be reached on Monday - Friday from 5:30 to 2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on 703-308-3179. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



James R Brittain
Primary Examiner
Art Unit 3626

JRB
February 6, 2002